

SENATE BILL No. 349

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-11-5-1; IC 11-12-2; IC 35-38; IC 35-50-6-5.

Synopsis: Community corrections. Provides that department of correction (department) rules concerning the maintenance of order and discipline among committed persons applies to persons placed in a community corrections program, assigned to a community transition program, or released on parole. Repeals a provision that requires a county that receives a grant from the department commissioner for the establishment and operation of a community corrections program to be charged a sum for certain persons committed to the department and confined in a state correctional facility. Requires that a community corrections plan must include a method to evaluate each component of the program to determine the overall use of department approved best practices for the program. Provides that the department must require community corrections programs to submit an evaluation of the use of department approved best practices for community correction program components in proposed budget requests. Provides that, for the purposes of the law concerning home detention, a home includes the residence of another person who is not part of the social unit formed by an offender's immediate family. Establishes certain standards and criteria for direct placement of offenders in community corrections programs. Specifies that, for purposes of the law concerning direct placement in community corrections programs: (1) "home" means the actual living area of the temporary or permanent residence of a person; and (2) a person who is placed in a community corrections program under the law is entitled to earn credit time. Allows a person to be deprived of credit time for violating a rule or condition of a community corrections program.

Effective: July 1, 2010.

Arnold

January 11, 2010, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.



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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

SENATE BILL No. 349

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-11-5-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This chapter ~~does not~~
3 **apply applies** to persons:

- 4 (1) **placed in a community corrections program;**
- 5 (2) **assigned to a community transition program; or**
- 6 (3) released on parole.

7 SECTION 2. IC 11-12-2-1 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) For the purpose
9 of encouraging counties to develop a coordinated local
10 corrections-criminal justice system and providing effective alternatives
11 to imprisonment at the state level, the commissioner shall, out of funds
12 appropriated for such purposes, make grants to counties for the
13 establishment and operation of community corrections programs.
14 Appropriations intended for this purpose may not be used by the
15 department for any other purpose. Money appropriated to the
16 department of correction for the purpose of making grants under this
17 chapter and ~~charges made against a county~~ **any financial aid**



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payments suspended under section 9, **6 of this chapter** do not revert to the state general fund at the close of any fiscal year, but remain available to the department of correction for its use in making grants under this chapter.

(b) The commissioner shall give priority in issuing community corrections grants to programs that provide alternative sentencing projects for persons with mental illness, addictive disorders, mental retardation, and developmental disabilities.

SECTION 3. IC 11-12-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A community corrections advisory board shall:

(1) formulate:

(A) the community corrections plan and the application for financial aid required by section 4 of this chapter; and

(B) the forensic diversion program plan under IC 11-12-3.7;

(2) observe and coordinate community corrections programs in the county;

(3) make an annual report to the county fiscal body, county executive, or, in a county having a consolidated city, the city-county council, containing an evaluation of the effectiveness of programs receiving financial aid under this chapter and recommendations for improvement, modification, or discontinuance of these programs;

(4) ensure that programs receiving financial aid under this chapter comply with the standards adopted by the department under section 5 of this chapter; ~~and~~

(5) recommend to the county executive or, in a county having a consolidated city, to the city-county council, the approval or disapproval of contracts with units of local government or nongovernmental agencies that desire to participate in the community corrections plan; **and**

(6) ensure that:

(A) all offenders placed on an electronic monitoring device are supervised:

(i) directly by a community corrections program; or

(ii) through a contract between the community corrections program and a contract agency (as defined in IC 35-38-2.5-2.5); and

(B) a contract agency described in clause (A)(ii) is in compliance with the local community corrections standards.

Before recommending approval of a contract, the advisory board must

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determine that a program is capable of meeting the standards adopted by the department under section 5 of this chapter.

(b) A community corrections advisory board shall do the following:

(1) Adopt bylaws for the conduct of its own business.

(2) Hold a regular meeting at least one (1) time every three (3) months and at other times as needed to conduct all necessary business. Dates of regular meetings shall be established at the first meeting of each year.

(3) Comply with the public meeting and notice requirements under IC 5-14-1.5.

(c) A community corrections advisory board may contain an office as designated by the county executive or, in a county having a consolidated city, by the city-county council.

(d) Notwithstanding subsection (a)(4), the standards applied to a court alcohol and drug program or a drug court that provides services to a forensic diversion program under IC 11-12-3.7 must be the standards established under IC 12-23-14 or IC 12-23-14.5.

SECTION 4. IC 11-12-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A county or group of counties seeking financial aid under this chapter must apply to the commissioner in a manner and form prescribed by the commissioner. The application must include a community corrections plan that has been approved by the community corrections board and the county executive or, in a county having a consolidated city, by the city-county council. No county may receive financial aid until its application is approved by the commissioner.

(b) A community corrections plan must comply with rules adopted under section 5 of this chapter and must include:

(1) a description of each program for which financial aid is sought;

(2) the purpose, objective, administrative structure, staffing, and duration of the program;

(3) a method to evaluate each component of the program to determine the overall use of department approved best practices for the program;

~~(3)~~ **(4)** the program's total operating budget, including all other sources of anticipated income;

~~(4)~~ **(5)** the amount of community involvement and client participation in the program;

~~(5)~~ **(6)** the location and description of facilities that will be used in the program; and

~~(6)~~ **(7)** the manner in which counties that jointly apply for

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financial aid under this chapter will operate a coordinated community corrections program.

(c) A community corrections plan must be annually updated, approved by the county executive or, in a city having a consolidated city, by the city-county council, and submitted to the commissioner.

(d) No amendment to or substantial modification of an approved community corrections plan may be placed in effect until the department and county executive, or in a county having a consolidated city, the city-county council, have approved the amendment or modification.

(e) A copy of the final plan as approved by the department shall be made available to the board in a timely manner.

SECTION 5. IC 11-12-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The department shall do the following:

(1) Provide consultation and technical assistance to counties to aid in the development of community corrections plans.

(2) Provide training for community corrections personnel and board members to the extent funds are available.

(3) Adopt under IC 4-22-2 rules governing application by counties for financial aid under this chapter, including the content of community corrections plans.

(4) Adopt under IC 4-22-2 rules governing the disbursement of monies to a county and the county's certification of expenditures.

(5) Adopt under IC 4-22-2 minimum standards for the establishment, operation, and evaluation of programs receiving financial aid under this chapter. (These standards must be sufficiently flexible to foster the development of new and improved correctional practices.)

(6) Examine and either approve or disapprove applications for financial aid. The department's approval or disapproval must be based on this chapter and the rules adopted under this chapter.

(7) Keep the budget agency informed of the amount of appropriation needed to adequately fund programs under this chapter.

(8) Adopt under IC 4-22-2 a formula or other method of determining a participating county's share of funds appropriated for purposes of this chapter. This formula or method must be approved by the budget agency before the formula is adopted and must be designed to accurately reflect a county's correctional needs and ability to pay.

(9) Keep counties informed of money appropriated for the

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purposes of this chapter.

(10) Provide an approved training curriculum for community corrections field officers.

(11) Require community corrections programs to submit in proposed budget requests an evaluation of the use of department approved best practices for each community corrections program component.

(b) The commissioner may do the following:

(1) Visit and inspect any program receiving financial aid under this chapter.

(2) Require a participating county or program to submit information or statistics pertinent to the review of applications and programs.

(3) Expend up to three percent (3%) of the money appropriated to the department for community correction grants to provide technical assistance, consultation, and training to counties and to monitor and evaluate program delivery.

(c) Notwithstanding any law prohibiting advance payments, the department of correction may advance grant money to a county or group of counties in order to assist a community corrections program. However, not more than twenty-five percent (25%) of the amount awarded to a county or group of counties may be paid in advance.

(d) The commissioner shall disburse no more funds to any county under this chapter than are required to fund the community corrections plan.

SECTION 6. IC 35-38-2.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this chapter, "home" means:

(1) the interior living area of the temporary or permanent residence of an offender; or

(2) if the offender's residence is a multi-family dwelling, the unit in which the offender resides, and not the:

(A) halls or common areas outside the unit where the offender resides; or

(B) other units, occupied or unoccupied, in the multi-family dwelling.

The term includes a hospital, health care facility, hospice, group home, maternity home, residential treatment facility, and boarding house. The term does not include a public correctional facility. ~~or the residence of another person who is not part of the social unit formed by the offender's immediate family.~~

SECTION 7. IC 35-38-2.6-4.2 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2010]: **Sec. 4.2. (a) A community corrections program shall establish written criteria and procedures for determining if an offender or alleged offender is eligible for direct placement supervision under this chapter.**

(b) The criteria and procedures established under subsection (a) must establish a record keeping system that allows the department or community corrections program to quickly determine if an offender or alleged offender is in violation of the terms of a direct placement order issued under this chapter.

(c) A community corrections program charged by a court with supervision of offenders and alleged offenders ordered to be placed directly in a community corrections program under this chapter shall provide all law enforcement agencies, including any contract agency (as defined in IC 35-38-2.5-2.5), having jurisdiction in the place where a community corrections program is located a list of offenders and alleged offenders under direct placement supervision. The list must include the following information about each offender and alleged offender:

- (1) The offender's name, any known aliases, and the location of the offender's direct placement under this chapter.**
- (2) The crime for which the offender was convicted.**
- (3) The date the offender's direct placement expires.**
- (4) The name, address, and telephone number of the offender's supervising community corrections program officer for direct placement under this chapter.**
- (5) An indication of whether the offender is a violent offender.**

(d) Except as provided in IC 35-28-2.5-6(1), a community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo direct placement under this chapter shall, at the beginning of a period of the direct placement, set any monitoring device (as defined in IC 35-38-2.5-3) and surveillance equipment to minimize the possibility that the offender or alleged offender may enter another residence or structure without a violation.

(e) A community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo direct placement under this chapter shall:

- (1) maintain or contract with a contract agency to maintain constant supervision of each offender and alleged offender as described in subsection (f); and**

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(2) have adequate staff available twenty-four (24) hours each day to respond if an offender or alleged offender violates the conditions of the direct placement order under this chapter. A community corrections program may contract with a contract agency under this subsection only if the contract agency is able to comply with subsection (f).

(f) A contract agency:

(1) that maintains supervision of an offender or alleged offender under subsection (e)(1) shall follow the rules set by the local community corrections advisory board as a part of community corrections program direct placement written criteria and procedures; and

(2) shall notify the contracting community corrections program within one (1) hour if the offender or alleged offender violates the conditions of the direct placement order. However, if a shorter notification time is required by the community corrections program, a community corrections advisory board must require a contract agency to comply with the shorter notification requirement for a direct placement order violation as if the offender were serving a direct placement order as part of a community corrections program.

(g) A community corrections program or contract agency charged by a court with supervision of an offender or alleged offender placed under direct placement under this chapter shall cause a local law enforcement agency or contract agency described in this section to be the initial agency contacted upon determining that the offender is in violation of a direct placement order.

SECTION 8. IC 35-38-2.6-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.5. If a court places a person on home detention as part of a community corrections program, the placement must comply with **all applicable provisions in** IC 35-38-2.5. ~~including the supervision, monitoring, and unauthorized absence provisions of IC 35-38-2.5-10, IC 35-38-2.5-12, and IC 35-38-2.5-13.~~

SECTION 9. IC 35-38-2.6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) As used in this subsection, "home" means the actual living area of the temporary or

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permanent residence of a person. ~~The term does not include a:~~

- ~~(1) hospital;~~
- ~~(2) health care facility;~~
- ~~(3) hospice;~~
- ~~(4) group home;~~
- ~~(5) maternity home;~~
- ~~(6) residential treatment facility;~~
- ~~(7) boarding house; or~~
- ~~(8) public correctional facility.~~

A person who is placed in a community corrections program under this chapter is entitled to earn credit time under IC 35-50-6. ~~unless the person is placed in the person's home.~~

(b) A person who is placed in a community corrections program under this chapter may be deprived of earned credit time as provided under rules adopted by the department of correction under IC 4-22-2.

SECTION 10. IC 35-50-6-5, AS AMENDED BY P.L.80-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time the person has earned for any of the following:

- (1) A violation of one (1) or more rules of the department of correction.
- (2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.
- (3) A violation of one (1) or more rules or conditions of a:
 - (A) community transition program; or**
 - (B) community corrections program.**
- (4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.
- (5) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to register before being released from the department as required under IC 11-8-8-7.
- (6) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration

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1 with the department of correction.

2 However, the violation of a condition of parole or probation may not be
3 the basis for deprivation. Whenever a person is deprived of credit time,
4 the person may also be reassigned to Class II (if the person is not a
5 credit restricted felon) or Class III.

6 (b) Before a person may be deprived of earned credit time, the
7 person must be granted a hearing to determine the person's guilt or
8 innocence and, if found guilty, whether deprivation of earned credit
9 time is an appropriate disciplinary action for the violation. In
10 connection with the hearing, the person is entitled to the procedural
11 safeguards listed in section 4(e) of this chapter. The person may waive
12 the person's right to the hearing.

13 (c) Any part of the credit time of which a person is deprived under
14 this section may be restored.

15 SECTION 11. IC 11-12-2-9 IS REPEALED [EFFECTIVE JULY 1,
16 2010].

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